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FISCAL IMPACT REPORT

SPONSOR HJC DATE TYPED 2/11/04 HB 496/ HJCS

SHORT TITLE Create Crime of Incitement to Commit Stalking SB _____

ANALYST Koplik

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			Minimal		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts
Public Defender Department
New Mexico Sentencing Commission

SUMMARY

Synopsis of Bill

The proposed legislation amends §30-3A-1 NMSA 1978, known as the Harassment and Stalking Act. The bill is outlined as follows:

Section 2 - Harassment Penalty. The definition of harassment is changed to stipulate that it applies to the actions of a person. Harassment through the use of an electronic communication device is added to the statute. The bill retains the current definition of harassment, while adding a new type of conduct. A person who knowingly pursues a pattern of behavior with an electronic communication device that is intended to seriously alarm or terrorize another person and that serves no lawful purpose may be charged with harassment based on this bill. This conduct must cause a reasonable person to suffer substantial emotional distress.

Section 3 – Stalking Penalties. This section changes the definition of stalking. Currently, the alleged stalker must “intend to place another” person in reasonable apprehension of death, bodily harm, sexual assault, confinement or restraint. The bill changes the language stipulating that the alleged stalker must “intentionally act in a way that would place a reasonable” person in apprehension of the above dangers. It adds surveillance in a remote manner by means of an electronic

communication device (§30-3A-3A 2(b)) as another method of stalking, and then further defines methods of stalking as any combination of written, verbal, or electronic communication.

Section 3 states that the publishing, display or distribution of information “that would increase the risk of harm or violence to the victim of stalking by a third party” is a misdemeanor offense, and anyone convicted of stalking shall participate in a program of profession counseling.

Section 4 – Definitions. An electronic communication device is defined as a computer, video recorder, digital camera, fax machine, pager, audio equipment, or any device that can produce an electronically generated image, message or signal. The definition of a household member is moved to this new section.

Section 5 - Location of Offense. This new section addresses the locality of electronic stalking. It allows harassment or stalking to be deemed to have been committed either at the place where the electronic communication originated or where it was received.

Significant Issues

The proposed legislation creates a new form of harassment and stalking, through the use of electronic communication.

FISCAL IMPLICATIONS

While some costs may increase, most fiscal impact would be proportional to the enforcement of this law and commenced prosecutions. The estimated number of new cases is unknown.

TECHNICAL ISSUES

The definition of harassment varies between §30-3A-2A (1) and (2). The word “annoy” is deleted in the second definition of harassment. Otherwise the two paragraphs are in accordance with each other.

SK/dm